

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TAMRA FOGGY,

Plaintiff,

vs.

U.S. CHAPLIN, *et al.*,

Defendants.

2:08-cv-648-RCJ-RJJ

ORDER &
REPORT & RECOMMENDATION
OF UNITED STATES
MAGISTRATE JUDGE

On October 29, 2008, this Court scheduled a status hearing in this matter in order to address the following filings by the Plaintiff, Tamra Foggy:

1. Application for Leave to Proceed *In Forma Pauperis* (#12);
2. Notice of "Illegal Marketing" (#13);
3. Notice re: Claims (#15);
4. Notice (#17);
5. Notice of Manual Filing 3 Audio Recordings (#18);
6. Motion for Order to Show Cause (#19); and,
7. Notice and Demand (#25)

The hearing was scheduled for November 19, 2008. The Court ordered "that only Plaintiff, Tamra Foggy must attend this hearing." Foggy was informed that failure to attend the hearing "will result in a recommendation that this case be dismissed." *See* Order (#20). A copy

1 of the Order (#20) was mailed to Foggy via certified mail with tracking number 7007 2560 0001
2 6766 9198. The Court confirmed with the United States Postal Service that Foggy signed for the
3 certified letter containing Order (#20) on November 3, 2008, at 12:49 p.m. Foggy then failed to
4 appear for the scheduled hearing.

5 The Complaint here is non-sensical, alleging surveillance by foreign governments,
6 including Spain, Columbia, Vietnam, Japan, Thailand, France, England and the Bureau of Indian
7 Affairs. In a prior hearing, the Court instructed Foggy to amend her Complaint to cure specified
8 defects or risk dismissal with prejudice. Foggy made subsequent submissions but did not cure
9 any of the defects identified by the Court during the prior hearing—including articulating an
10 adequate basis for this Court's jurisdiction, identifying appropriate defendants, and articulating
11 cognizable federal claims. At least three (3) other cases filed by Foggy relating to these claims
12 have been dismissed in other jurisdictions. The result should be no different here.

13 Based on the foregoing and good cause appearing therefore,

14 **ORDER**

15 IT IS HEREBY ORDERED that the Application for Leave to Proceed *In Forma Pauperis*
16 (#12) is **DENIED**.

17 IT IS FURTHER ORDERED that the Notice and Demand (#25) is **DENIED**.

18 **RECOMMENDATION**

19 Based on the foregoing and good cause appearing therefore,


20 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be
21 **DISMISSED with prejudice**.

22 **NOTICE**

23 Pursuant to Local Rule IB 3-2 **any objection to this Report and Recommendation must**
24 **be in writing and filed with the Clerk of the Court on or before July 13, 2009.** The Supreme
25 Court has held that the courts of appeal may determine that an appeal has been waived due to the
26 failure to file objections within the specified time. Thomas v. Arn, 474 U.S. 140, 142 (1985). This
27 circuit has also held that (1) failure to file objections within the specified time and (2) failure to
28 properly address and brief the objectionable issues waives the right to appeal the District Court's

1 order and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d
2 1153, 1157 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

3 DATED this 30th day of June, 2009.

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7 ROBERT J. JOHNSTON
8 United States Magistrate Judge
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